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APPLICATION NO. 00/557,151	FILING DATE 04/22/97	FIRST NAMED INVENTOR NEWTON	ATTORNEY DOCKET NO.
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EUGENE S STEPHENS
EUGENE STEPHENS & ASSOCIATES
56 WINDSOR STREET
ROCHESTER NY 14605

PM32/0607

EXAMINER COHEN, C

ART UNIT 5634	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/839,161

Applicant(s)
Newton et al

Examiner
Curtis Cohen

Group Art Unit
3634



☒ Responsive to communication(s) filed on May 26, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-90 is/are pending in the application.

Of the above, claim(s) 26-28 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-25 and 29-90 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 13

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 and 53-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Claim 1, lines 13 and 15, the term "handing" lacks antecedent basis.

Claim 53, line 3, there is no antecedent basis for "the sash" nor is there antecedent basis for "each stile."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 29, 30, 32-34, 39-44, 46-48 and 53-58, 60-63, 67-73 are rejected under 35 U.S.C. 102(b) as being anticipated by Haas. Haas teaches that it is known in the art to provide a sash with sash support arms 152 that hang freely downward engage the sash shoes 112 thereby

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placing the weight of the sash on the shoes. A pivotally mounted locking means 92 mounted on a pin in a pin groove (or slot) on a sash shoe 65 which is adapted to lockingly engage the partition walls, see column 3, lines 15-22. A spring latch 70 retains the hook in an undeployed position and it is capable of being manually moved or moved with a tool. A guide 64 is mounted on the shoe 65.

Claims 74, 75, 79-81, 85, 86 and 90 are rejected under 35 U.S.C. 102(b) as being anticipated by Osten, Sr. #2,987,758. Osten, Sr. teaches a movable sash 20 mounted in a window frame 12 having sash guides 14. Sash support arms 50 are pivotally mounted on a pivot 44 between an outwardly and a downwardly extending position. The arms 50 rest on a pair of sash shoes 92 as best shown in Figure 1. In the inwardly extending position, the arms can touch an outer region of the shoe, and in the outwardly extending position the arms can touch the inner region of the shoe. A counterbalance is applied to a hook region which is above the outer platform region of the shoe. A locking element is taught by the surface 102. In column 2, lines 1-6, Osten, Sr. discloses that it is known to use extrusion as a manufacturing technique. The shoe of Osten, Sr. also comprises a guide 110 which guides the shoe and window along a track 114. A retaining groove is taught by the eyelet of hook 84.

Claims 1-11, 29, 30, 32-34, 39-44, 46-48 and 53-58, 60-63, 67-73 are rejected under 35 U.S.C. 102(b) as being anticipated by Haas. Haas teaches that it is known in the art to provide a sash with sash support arms 152 that hang freely downward engage the sash shoes 112 thereby placing the weight of the sash on the shoes. A pivotally mounted locking means 92 mounted on a

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pin in a pin groove (or slot) on a sash shoe 65 which is adapted to lockingly engage the partition walls, see column 3, lines 15-22. A spring latch 70 retains the hook in an undeployed position and it is capable of being manually moved or moved with a tool. A guide 64 is mounted on the shoe 65.

Claims 76, 77, 78, 82-84 and 87-89 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Osten, Sr. Osten, Sr. teaches the invention as discussed in the rejection above. Osten, Sr. does not disclose to what particular dimension the metal is intended to be sized. However, applicants' claims do not define a particular structural feature that would distinguish from Osten, Sr. and Haas. Therefore, it is inherent that one of ordinary skill would make shoes and the arms to fit whatever size window for which they are installed.

Claims 31, 49-51, and 64-66 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Haas. Haas teaches the invention as discussed in the rejection above. Haas does not disclose the particular function of what size the metal is intended to be sized. However, it is inherent that one of ordinary skill would make shoes and the arms to fit whatever size window for which they are installed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osten, Sr.

Osten, Sr. teaches a movable sash 20 mounted in a window frame 12 having sash guides 14. Sash support arms 50 are pivotally mounted on a pivot 44 between an outwardly and a downwardly extending position. The arms 50 rest on a pair of sash shoes 92 as best shown in Figure 1. In the inwardly extending position, the arms can touch an outer region of the shoe, and in the outwardly extending position the arms can touch the inner region of the shoe. A counterbalance is applied to a hook region which is above the outer platform region of the shoe. A locking element is taught by the surface 102. In column 2, lines 1-6, Osten, Sr. discloses that it is known to use extrusion as a manufacturing technique. Claim 12, the preamble of this claim indicates a Jepson type claim where the structure indicated in the preamble of the claim is admitted prior art. Therefore, the burden of the examiner is to provide evidence of the subcombination of the structure listed in sections a-c of claim 12. However, Osten, Sr. meets the requirements for a 102(b) by teaching all of the limitations in the preamble and the limitations in sections a-c. The shoe of Osten, Sr. also comprises a guide 110 which guides the shoe and window along a track 114. A retaining groove is taught by the eyelet of hook 84. Although Osten, Sr. does teach that extrusion is well known and he teaches that the shoes can be made from a sintered powder, it would have been an obvious matter of design choice to have made the shoes from an extrusion process which is a more economical and time efficient method of making the shoes. Osten, Sr. does not disclose to what

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particular dimension the metal is intended to be sized. However, applicants' claims do not define a particular structural feature that would distinguish from Osten, Sr. Nevertheless, it would have been obvious to one of ordinary skill in the art to make shoes and the arms to fit whatever size window for which they are installed.

Claims 35-38 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haas as applied to claims 1-11, 29, 30, 32-34, 39-44, 46-48 and 61-63, 53-58, 60, 67-73 above, and in further view of Osten, Sr. Haas discloses the invention as taught in the Section 102 rejection above including a locking slot 96. Haas does not disclose the shoe 64 being formed of a resin material. Osten, Sr. teaches that it is known in the art to form a shoe guide 110 out of a resin material as described on column 3, lines 45-49, to reduce the frictional noise created by the known metal guides when they contact the metal channels. For this reason, it would have been obvious to one having ordinary skill in the art at the time of applicants' invention, to provide Haas with a guide formed from a resin material as taught by Osten, Sr.

Claims 59, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osten, Sr. Osten, Sr. teaches the invention as discussed in the Section 102(b) rejection above. Osten, Sr. lacks a support arm having extruded coding lines indicating the length of the support arm. Coding symbols are well known in the art of manufacturing. One example of this teaching is on the head of a bolt which has different coding lines indicating the different strengths of each bolt. Therefore, it would have been obvious to one having ordinary skill in the art, at the time of applicants' invention, to provide Osten, Sr. with code lines to indicate the length of the arm.

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Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haas as applied to claims 31, 49-51, and 64-66 above. Haas teaches the invention as discussed in the Section 102(b)/103 rejection above. Haas lacks a support arm having extruded coding lines indicating the length of the support arm. Coding symbols are well known in the art of manufacturing. One example of this teaching is on the head of a bolt which has different coding lines indicating the different strengths of each bolt. Therefore, it would have been obvious to one having ordinary skill in the art, at the time of applicants' invention, to provide Haas with code lines to indicate the length of the arm.


Response to Arguments

Applicant's arguments with respect to claims 1-25 and 29-90 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Cohen whose telephone number is (703) 308-7687.

The fax phone number for this Group is (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

C. Cohen 

June 7, 1999



Daniel P. Stodola
Supervisory Patent Examiner
Group 3600